IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

-

WRIT PETITION NO : 7525 of 2004

Between:

Dr. G. Venugopal, s/o Sri G.H. Gangaiah,
R/o H.No. 1-11-193/1, Shyamlal Buildings, Begumpet,Hyderabad - 50016.

..... PETITIONER

AND

1 Hyderabad Metropolitan Water Supply & Sewerage Board, Khairatabad, Hyderabad, Rep. by its Managing Director.
2 Hyderabad Metropolitan Water Supply & Sewerage Board, Khairatabad, Hyderabad, Rep. by its Executive Director.
3 G. Gopalakrishna, S/o Sri G.H. Gangaiah, Major, R/o H.No. 1-11-193, Shyamlal Buildings, Begumpet, Hyderabad _ 500 016.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of Mandamus declaring the action of the respondents 1 and 2 in rejecting the petitioner's application dated 15-11-2003 under Letter No. ED/HMWSSB/2003-04/83, dated 6-12-2003 as illegal, arbitrary, contrary to law and inflagrant violation of the Principles of natural Justice by consequently directing the respondents 1and 2 to provide fresh drinking water connection to the premises bearing No. 1-11-193/1, near Shyamlal Buildings, Begumpet, Hyderabad.

Counsel for the Petitioner: MR.D.HANUMANTHA RAO, Advocate.

Counsel for Respondents 1&2: MS.M.VENKATESWARI, S.C. for HMWSSB.

Counsel for respondent No.3:Mr.K.V.Simhadri, Advocate.

The Court made the following :

ORAL ORDER:

Petitioner claims to be the joint owner of premises bearing No.1-11-193/1, Shyamlal Buildings, Begumpet which was purchased by his father in the year 1963 in the name of 3rd respondent. Since there were disputes between the petitioner and 3rd respondent, petitioner filed O.S.No.26 of 2001 before the I Additional Chief Judge, city Civil Court, Secunderabad; whereas the 3rd respondent filed R.C.No.218 of 2000 against the petitioner's sister and R.C.No.106 of 2001 against the petitioner for eviction. When the cases are pending, petitioner was not permitted to draw the drinking water provided to that building by the 3rd respondent. Therefore, petitioner made an application to the respondents 1 and 2 for providing water connection. In response to the application, respondent No.1 through his proceedings dated 14-11-2003 informed the petitioner that his application couldn't be considered for approval for the reason he failed to produce correct documents. Thereafter, the petitioner issued a notice dated 15-11-2003 which was suitable replied by the respondents stating that water supply connection cannot be sanctioned, as the petitioner has not produced the documents claiming ownership of the building. On the other hand, 3rd respondent claiming as owner of the building issued a notice through his advocate *not to give any fresh water connection to the petitioner*. In view of the same, petitioner moved this Court by way of present writ petition.

The 2nd respondent field a counter justifying their action, unless the documents are filed respondents cannot release water connection in favour of petitioner.

The 3rd respondent filed a counter stating that petitioner has no right or claim over the suit schedule property, and the suit for partition filed by the petitioner is only a counter blast to the eviction suit filed by him.

Both the parties claim ownership through G.H.Gangaiah. The said fact is not disputed. The petitioner is in possession of the suit schedule property where he is claiming for water connection.

Learned Counsel for the petitioner along with reply filed declarations of the 3rd respondent for years 1985, 1988, 1993, 1997 which were marked as Ex.X6, X2, X7 and X10 respectively in R.C.No.106 of 2001 which clearly show that the suit property was purchased in the name of 3rd respondent by his father and it is a joint family property in which petitioner is also having a share.

All these disputed questions of fact cannot be gone into in a petition filed under Article 226 of the Constitution of India. It is for the 2nd respondent to consider the documents, but the petitioner along with application did not file the same. In view of the same, petitioner is at liberty to file all these documents to show that he is a joint owner. On filing such documents, it is for the 2nd respondent to consider the same and pass appropriate orders after hearing the parties including that of 3rd respondent. However, the order, if any, passed on the application of the petitioner cannot be understood that his right has been recognized except for providing water connection.

The writ petition is accordingly disposed of. No costs.

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A.GOPAL REDDY,J

13-08-2004

Murthy

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Managing Director, Hyderabad Metropolitan Water Supply & Sewerage Board, Khairtabad, Hyderabad.

2. The Executive Director, Hyderabad Metropolitan Water Supply & Sewerage Board, Khairtabad, Hyderabad.

3. Two CD copies.